

THE HON'BLE MR JUSTICE N.V.RAMANA

WRIT PETITION No.7604 of 2007

Dated 13-04-2007

Between:

D.Sambasiva Rao

..... PETITIONER

AND

The Regional Manager, APSRTC, Guntur, Guntur District & others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE N.V.RAMANA

WRIT PETITION No.7604 of 2007

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ORDER:

While the petitioner was working as Conductor in the respondent-Corporation, disciplinary proceedings were initiated against him, alleging that he had committed certain cash and ticket irregularities while conducting bus in Hyderabad on special duty on 09/10-06-2005. Subsequently, based on the report submitted by the enquiry officer, the impugned final order-cum-show cause notice, dated

20-09-2005 was issued imposing the punishment of stoppage of annual increment for a period of two years with cumulative effect and treated the period of suspension as "Not on Duty". Aggrieved thereby, the petitioner preferred an appeal before the appellate authority and the same was rejected on 09-10-2006. Hence, the petitioner filed the present writ petition.

Learned counsel for the petitioner submits that the second respondent, without furnishing copy of enquiry report and without affording any opportunity of hearing to the petitioner, straight away issued the impugned proceedings imposing the punishment of deferment of annual increment for a period of two years with cumulative effect. He further submitted that the issue raised in this writ petition is squarely covered by the orders of this Court in W.P.No.18299 of 2005, dated 05-09-2005. Learned standing counsel for the respondent-Corporation admitted the same. He, however, opposed the relief contending that after considering the entire material on record, the impugned order was passed, and no interference is called for therewith.

Heard the learned counsel for the petitioner and the learned standing counsel for the respondent-Corporation.

The issue raised in the present writ petition is squarely covered by the orders of this Court in W.P.No.18299 of 2005, dated 05-09-2005. The operative portion of the said order reads as under:

“Strictly speaking the impugned order deserves to be set aside, and the matter needs to be remanded. However, having regard to the fact that nearly six years have elapsed, this Court does not find it proper, to subject the petitioner to another set of proceedings. Taking the totality of the circumstances into account, the punishment of stoppage of increment shall be treated, as the one without cumulative effect. However, the petitioner shall not be entitled for any monetary benefit, upto the date of this order, on account of the modification of the punishment.

The writ petition is accordingly disposed of. There shall be no order as to costs.”

Hence, following the orders of this Court in W.P.No.18299 of 2005, dated 05-09-2005, the present writ petition is also disposed of with the following direction.

The impugned order dated 20-09-2005, passed by the second respondent imposing the punishment of stoppage of annual increment for a period of two years with cumulative effect, is modified to that of stoppage of annual increment without cumulative effect. However, the petitioner shall not be entitled to any monetary benefits arising out of this order, but shall be entitled for fixation of pay only.

Accordingly, the writ petition is disposed of. No order as to costs.

13-04-2007

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